

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

MAX FRAENKEL,

Defendant.

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**ORDER GRANTING MOTION
TO APPLY BOND DEPOSIT TO
RESTITUTION**

16 Cr. 829 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

On May 19, 2017 Defendant Max Fraenkel plead guilty to counts of money laundering conspiracy, international money laundering, wire fraud conspiracy, and wire fraud. At the time of Fraenkel's arrest in 2016, he deposited \$5,000 with the Clerk of Court to secure his release on bond. On May 11, 2018 I sentenced him to time served and ordered that he pay \$11,550,428.39 in restitution, through payment of 15% of Fraenkel's monthly net income. The Government represents that, to date, Fraenkel has paid only \$29,120 toward the restitution. On May 9, 2022 the Government moved for entry of an order directing the Clerk of Court to apply the \$5,000 on deposit in the Court's Registry as security for Defendant's appearance bond to the outstanding restitution. Neither Fraenkel nor his counsel opposed the motion. For the reasons stated below, the motion is granted.

Under 28 U.S.C. § 2044, district courts are required to order bail money belonging to and deposited by defendants to apply to outstanding fines. *See United States v. Ware*, 2021 WL 3188248, at *1 (S.D.N.Y. July 28, 2021). That section provides as follows:

On motion of the United States attorney, the court shall order any money belonging to and deposited by or on behalf of the defendant with the court for the


purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant.

18 U.S.C. § 2044. Per the text of § 2044, the Government is plainly entitled to apply the \$5,000 of Defendant's bond money to his outstanding restitution obligations. *See United States v. Brumer*, 405 F. App'x. 554, 556 (2d Cir. 2011).

Accordingly, I hereby order the Clerk of Court to apply Fraenkel's \$5,000 cash bond deposit held in the Court's Registry toward his restitution obligation. The Clerk shall terminate ECF No. 179.

SO ORDERED.

Dated: May 26, 2022
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge